

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

YOUNG CONSERVATIVES OF TEXAS §
FOUNDATION, §
§
Plaintiff, §
§
v. § **CIVIL ACTION NO. 4:20-CV-973-SDJ**
§
THE UNIVERSITY OF NORTH TEXAS, §
THE UNIVERSITY OF NORTH TEXAS §
SYSTEM, NEAL SMATRESK, §
PRESIDENT OF THE UNIVERSITY OF §
NORTH TEXAS, AND SHANNON §
GOODMAN, VICE PRESIDENT FOR §
ENROLLMENT OF THE UNIVERSITY §
OF NORTH TEXAS, §
§
Defendants. §

JOINT MOTION FOR ENTRY OF FINAL JUDGMENT

Defendants Neal Smatresk, in his official capacity as the University of North Texas's president, Shannon Goodman, in his official capacity as the University of North Texas's Vice-President for Enrollment, the University of North Texas, and the University of North Texas System (collectively, Defendants), jointly with Plaintiff Young Conservatives of Texas Foundation, respectfully move for entry of a final judgment in this case in accordance with the decision of the U.S. Court of Appeals for the Fifth Circuit in *Young Conservatives of Texas Foundation v. Smatresk, et al.*, 73 F.4th 304 (5th Cir. 2023) ("YCT"). Attached to this motion as Exhibit A is a proposed order issuing a new final judgment in this matter, which disposes of all claims against all parties in this case.

BACKGROUND

On April 8, 2022, the Court issued a final judgment and permanent injunction barring Defendants Smatresk and Goodman from applying the tuition rates prescribed by Section

54.051(d) of the Texas Education Code to U.S. citizens attending the University of North Texas. Dkt.65. In that same final judgment, the Court dismissed with prejudice all claims against the University of North Texas and the University of North Texas System. Dkt.65; *see also* Dkt.64 (memorandum opinion & order on summary-judgment motions).

Defendants Smatresk and Goodman appealed the judgment and injunction. Dkt.66. Young Conservatives of Texas did not appeal the dismissal with prejudice of the claims against the University of North Texas and the University of North Texas System.

On July 10, 2023, the Fifth Circuit issued its decision, holding that 8 U.S.C. § 1623(a) does not preempt the tuition rates established by section 54.051(d) of the Texas Education Code for non-residents of Texas who are U.S. citizens, reversed this Court's judgment, vacated the permanent injunction, and remanded the case to this court for further proceedings in accordance with the opinion. *YCT*, 78 F.4th at 315.

REQUEST FOR ENTRY OF FINAL JUDGMENT

Based on the Fifth Circuit's reversal of the Court's original Final Judgment and remand to this Court, entry of a new Final Judgment is appropriate. YCT brought a single claim in this case alleging that UNT Officials improperly charged its out-of-state members who are U.S. citizens the out-of-state tuition rate under Section 54.051(d), which YCT asserted Section 1623(a) preempted. *See id.* at 308; Dkt. 1-5 (Orig. Pet.). The Fifth Circuit fully resolved that claim counter to YCT's position in ruling that Section 1623(a) neither expressly nor impliedly preempted Section 54.051(d). *YCT*, 73 F.4th at 314. Accordingly, entry of a new final judgment is appropriate. *See, e.g., Deutsche Bank Nat'l Tr. Co. v. Burke*, 902 F.3d 548, 551 (5th Cir. 2018) (per curiam); *Ball v. LeBlanc*, 881 F.3d 346, 351 (5th Cir. 2018).

Attached to this motion as Exhibit A is a proposed new final judgment that disposes of all claims against all parties in this case.

CONCLUSION & RELIEF REQUESTED

For these reasons, the parties respectfully request that the Court issue a new final judgment, as set out in Exhibit A.

Respectfully submitted,

s/ Chance Weldon

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UNIVERSITY OF NORTH TEXAS, THE
UNIVERSITY OF NORTH TEXAS SYSTEM,
NEAL SMATRESK, PRESIDENT OF THE
UNIVERSITY OF NORTH TEXAS, AND
SHANNON GOODMAN, VICE PRESIDENT
FOR ENROLLMENT OF THE UNIVERSITY
OF NORTH TEXAS**

CERTIFICATE OF CONFERENCE

I certify that on October 19 and 20, 2023, I conferred with Chance Weldon, counsel for Young Conservatives of Texas Foundation, regarding the relief sought by this motion and Young Conservatives of Texas Foundation agreed to file this joint motion.

/s/ Andy Taylor
Andy Taylor

CERTIFICATE OF SERVICE

I certify that on October 20, 2023, this Joint Motion for Entry of Final Judgment was served on all counsel of record, listed below, via the CM/ECF system of the Court.

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/s/ Wallace B. Jefferson

Wallace B. Jefferson

EXHIBIT A

UNITED STATES DISTRICT COURT
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[PROPOSED] FINAL JUDGMENT

On this day, October __, 2023, the Court considered the parties' Joint Motion for Entry of Final Judgment, the pleadings in the case, and the decision of the U.S. Court of Appeals for the Fifth Circuit in the Defendants' appeal from this Court's judgment in *Young Conservatives of Texas Foundation v. Smatresk*, 73 F.4th 304 (5th Cir. 2023). Based on the Court's review, the motion is well-taken and is **GRANTED**.

It is therefore **ORDERED, ADJUDGED, and DECREED** as follows:

All claims asserted in this action against Defendants Neal Smatresk, in his official capacity as President of the University of North Texas; Shannon Goodman, in his official capacity as Vice-President for Enrollment of the University of North Texas; the University of North Texas; and the University of North Texas System are **DISMISSED WITH PREJUDICE**.

Each party shall bear its own costs, including any attorney's fees incurred in this action.

All relief not expressly granted herein is **DENIED**.

The Clerk is directed to **CLOSE** this civil case.

So ORDERED and SIGNED this day of October, 2023.

SEAN D. JORDAN
UNITED STATES DISTRICT JUDGE